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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,862	09/23/2003	Gabriel Wechter	200311141-1	1387

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EXAMINER
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CHEEMA, UMAR

ART UNIT	PAPER NUMBER
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2144

NOTIFICATION DATE	DELIVERY MODE
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06/17/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/667,862	<b>Applicant(s)</b> WECHTER ET AL.	
	<b>Examiner</b> UMAR CHEEMA	<b>Art Unit</b> 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is response to the Amendment filed on 02/25/2008. Claims 1-27 are pending in the action.
2. Applicant's arguments, see remarks, filed on 02/25/2008, with respect to the Specification have been fully considered and are persuasive. The Objection to the Specification has been withdrawn.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Black et al. (Black) (US Patent # 7,143,153).

Regarding to claim 1, Black discloses a method of determining a network management scalability threshold of a network manager with respect to a network (see abstract, col. 2, lines 24-36), comprising: gathering information about the network (see col. 45, lines

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5-13; monitoring information about network); gathering information about the network manager (see col. 1, lines 35-50); and determining a maximum size threshold of a zone in the network based on the gathered network information and the gathered network manager information (see col. 4, lines 1-20).

Regarding to claim 2, Black discloses the method of Claim 1, wherein: the information about the network manager includes an amount of memory available to the network manager (see abstract, col. 2, lines 24-30); and the determining includes assigning a value to the maximum size threshold of a zone in the network based on the amount of memory available to the network manager (see col. 4, lines 1-20).

Regarding to claim 3, Black discloses the method of Claim 2, wherein: the information about the network includes a number of each type of node in the network, and a ratio of switches to other types of nodes in the network (see col. 39, lines 7-15); and the determining includes decreasing the maximum size threshold of a zone in the network if the ratio of switches to other types of nodes in the network exceeds a first threshold, and increasing the maximum size threshold of a zone in the network if the ratio of switches to other types of nodes in the network is below a second threshold (see col. 4, lines 1-20).

Regarding to claim 4, Black discloses the method of Claim 3, wherein: the information about the network includes a total number of connections between each switch in the

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network and other nodes in the network, and a ratio of a) the total number of connections to b) a number of nodes in the network (see col. 39, lines 7-15); and the determining includes decreasing the maximum size threshold of a zone in the network if the ratio of the total number of connections to nodes exceeds a third threshold, and increasing the maximum size threshold of a zone in the network if the ratio of the total number of connections to the number of nodes in the network is below a fourth threshold (see col. 1, lines 34-50, see col. 4, lines 1-20).

Regarding to claim 5, Black discloses the method of Claim 4, wherein the number of connections is a number of connections between the switches in the network and other nodes in the network (see col. 369, lines 10-20).

Regarding to claim 6, Black discloses the method of Claim 4, wherein: the information about the network includes a number of interfaces in the network, and a ratio of a) interfaces in the network to b) nodes in the network (see col. 39, lines 7-15); and the determining includes decreasing the maximum size threshold of a zone in the network if the ratio of interfaces to nodes equals or exceeds a fifth threshold, and increasing the maximum size threshold of a zone in the network if the ratio of interfaces to nodes in the network is below a sixth threshold (see col. 1, lines 34-50, see col. 4, lines 1-20).

Regarding to claim 7, Black discloses the method of Claim 6, wherein the fifth and sixth thresholds are the same, the first threshold is greater than the second threshold, and

the third threshold is greater than the fourth threshold (see col. 2, lines 48-67).

Regarding to claim 8, Black discloses the method of Claim 1, wherein the network is a zone candidate or subset of a larger network and includes specific nodes (col. 1, lines 51-60).

Regarding to claim 9, Black discloses the method of Claim 1, comprising preventing the network manager from discovering or managing a zone of the network having a size exceeding the determined maximum size threshold (see col. 9, lines 44-48).

Regarding to claim 10, Black discloses a system for determining a network management scalability threshold of a network manager with respect to a network (see abstract, col. 2, lines 24-36), comprising: means for gathering information about the network (see col. 45, lines 5-13; monitoring information about network), gathering information about the network manager (see col. 1, lines 35-50), and determining a maximum size threshold of a zone in the network based on the gathered network information and the gathered network manager information; and means for connecting the network manager to the network (see col. 4, lines 1-20).

Regarding to claim 11, the limitations of this claim has already been addressed (see claim 2 above).

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Regarding to claim 12, the limitations of this claim has already been addressed (see claim 3 above).

Regarding to claim 13, the limitations of this claim has already been addressed (see claim 4 above).

Regarding to claim 14, the limitations of this claim has already been addressed (see claim 5 above).

Regarding to claim 15, the limitations of this claim has already been addressed (see claim 6 above).

Regarding to claim 16, the limitations of this claim has already been addressed (see claim 7 above).

Regarding to claim 17, the limitations of this claim has already been addressed (see claim 8 above).

Regarding to claim 18, the limitations of this claim has already been addressed (see claim 9 above).

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Regarding to claim 19, Black discloses a machine readable medium comprising a computer program for causing a computer to perform (see col. 6, lines 46-56): gathering information about a network (see col. 45, lines 5-13; monitoring information about network); gathering information about a network manager arranged to monitor the network (see col. 1, lines 35-50); and determining a maximum size threshold of a zone in the network based on the gathered network information and the gathered network manager software program information (see col. 4, lines 1-20).

Regarding to claim 20, the limitations of this claim has already been addressed (see claim 2 above).

Regarding to claim 21, the limitations of this claim has already been addressed (see claim 3 above).

Regarding to claim 22, the limitations of this claim has already been addressed (see claim 4 above).

Regarding to claim 23, the limitations of this claim has already been addressed (see claim 5 above).

Regarding to claim 24, the limitations of this claim has already been addressed (see claim 6 above).



Regarding to claim 25, the limitations of this claim has already been addressed (see claim 7 above).

Regarding to claim 26, the limitations of this claim has already been addressed (see claim 8 above).

Regarding to claim 27, the limitations of this claim has already been addressed (see claim 9 above).

### ***Response to Arguments***

4. Applicant's arguments filed on 02/25/2008 have been fully considered but they are not persuasive. However, because there exists the likelihood of future presentation of this argument, the Examiner thinks that it is prudent to address applicant's main point of contention. Applicant's arguments include:

**A.** With regards to claim 1, Applicant argues that Black does not teach or suggest: "gathering information about the network manager; and determining a maximum size threshold of a zone in the network based on . . . the gathered network manager information".

**As for Point A**, it is Examiner's position that Black teaches or suggests "gathering information about the network manager (see col. 1, lines 35-50, col. 63, lines 29-48, figure 13b; col. 67, lines 40-67, col. 68, lines 1-8; network manager selectively

configures certain of the applications and gathering data related to UDS etc.); and determining a maximum size threshold of a zone in the network based on . . . the gathered network manager information (see col. 1, lines 65-67, col. 2, lines 1-20, col. 4, lines 1-20, col. 67, lines 40-66; systems monitor the predetermined resource attributes for a certain initial period of time and then automatically set the threshold values based on the data gathered during that initial period etc.)". Thus it is the Examiner's position that the rejection to claim 1 and its dependent claims is proper for the given reasons above. Independent claims 10, 19 and their dependent claims recite similar features and therefore are rejected proper for the given reason above.

5. **Examiner's Note:** Examiner has cited particular paragraphs, figures, columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to UMAR CHEEMA whose telephone number is (571)270-3037. The examiner can normally be reached on M-F 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Jr. Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Uc

/William C. Vaughn, Jr./  
Supervisory Patent Examiner, Art Unit 2144